

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated September 10, 2008. Reconsideration and allowance of the application in view of the amendments provided above and the remarks to follow are respectfully requested.

Claims 1-10 are pending in the Application. Claims 6-10 are added by this amendment.

In the Office Action, claims 1 and 3-5 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by, it is believed, U.S. Patent No. 6,702,483 to Tsuboi ("Tsuboi"). Claim 2 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Tsuboi. It is respectfully submitted that claims 1-5 are allowable over of Tsuboi for at least the following reasons.

Tsuboi shows an optical element (see, FIGs. 10A-10C cited in the Office Action and the accompanying description contained in Col. 13, lines 3-8). Tsuboi makes clear that (emphasis added) "FIG. 10A shows a non-energized state where the diaphragm-shutter unit is completely closed ..." (See, Col. 13, lines 3-4.) As an inspection of FIG. 10A makes clear, in a non-energized state, Tsuboi teaches that interface between the liquids 8 and 9 is not in contact with the container. Accordingly, as made clear by Tsuboi,

the container is not in direct contact with and defining the shape of the interface between the liquids 8 and 9 when the optical element is providing 0 volts (is not energized).

It is respectfully submitted that the variable focus lens of claim 1 is not anticipated or made obvious by the teachings of Tsuboi. For example, Tsuboi does not disclose or suggest, a variable focus lens that amongst other patentable elements, comprises (illustrative emphasis added) "a container enclosing an insulating liquid and a conducting liquid, the insulating liquid and the conducting liquid being immiscible, having different refractive indices and being in contact with each other via an interface, the liquids being at least partially placed in a light path through the container; an electrode arrangement for controlling the shape of the interface by means of a voltage; the container further comprising a transparent end portion in the light path, a part of the transparent end portion of the container being in direct contact with and defining the shape of a central portion of the interface when the electrode arrangement is providing 0 volts" as recited in claim 1, and as similarly recited in claim 3. In Tsuboi, the interface between the liquids is not in contact with the container when the optical element is providing 0 volts (is not

energized).

Based on the foregoing, the Applicants respectfully submit that independent claims 1 and 3 are patentable over Tsuboi and notice to this effect is earnestly solicited. Claims 2 and 4-10 respectively depend from one of claims 1 and 3 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

For example, while image pick-up means 134 is recited for showing an image sensor as recited in claim 5, it is respectfully submitted that in Tsuboi, the image pick-up means 134 is not "arranged to provide the driver circuitry with an output signal for controlling the magnitude of the further predefined voltage" as recited in claim 5 and as similarly recited in each of claims 6-10.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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